IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

CRP.No. 954 of 2007()

AGAINST THE ORDER DATED 06/10/2007 IN EA.57/07EP.79/98 IN OS.240/1971 of MUNSIFF COURT, PERUMBAVOOR
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REVN. PETITIONER: JUDGEMENT/DEBTOR

NARAYANAN NAIR, S/O.GOVINDAN NAIR,
AGED 64 YEARS, CHENGABILLY HOUSE, ASHAMANNOOR KARA, ASAMANNOOR VILLAGE, KUNATHUNADU TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: DECREE HOLDER

KESAVAN NAMBOODIRI, S/O.VAMANAN NAMBOODIRI, KARIKKATTU ILLAM, ASAMANNOOR KARA, KUNATHUNADU TALUK, ERNAKULAM DISTRICT.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.954 OF 2007

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Dated this the 5th day of November 2007

ORDER

This revision petition is preferred against the order of the Munsiff's Court, Perumbavoor in E.A.No.57 of 2007 in E.P.No.79 of 1998 in O.S.No.240/1971. It is the case of the judgment debtors that the decree holder is only entitled to get delivery of 20 cents of properties scheduled in the decree and any attempt to get excess property delivered will be in contravention of the decree and therefore the order passed by the learned Munsiff directing to deliver 8 ½ cents of property more is illegal and has to be interfered with.

2. I had gone through the decree schedule and it is true that the property described is approximately 20 cents in Sy.No.284/1. The learned Munsiff has considered the entire matter and held that 20 cents of property is shown as item 1 and 8 ½ cents which is the disputed property now as item 2 in the survey plan. It is also specifically stated by him that defendants have no property in Sy.No.284/1 and their property is situated in Sy.No.284/5 and in Sy.No.284/6. The learned Munsiff further found that

the eastern and southern side of item Nos.1 and 2 lie in different survey numbers. Just because there is mis description of the actual extent in the schedule it need not be held that one is entitled to that extent of the property. The properties are enclosed on all sides by boundaries and the properties are held by respective parties in separate survey numbers. When these factors are taken into consideration, it has to be stated that the property claimed by the plaintiff, viz., the decree holder in the suit takes in item Nos.1 and 2 comprised in the survey plan and therefore I fully agree with the learned Munsiff in his decision that the decree holder is entitled to get delivery of 8 ½ cents more which is described as item No.2 in the survey plan.

With the above observation, the C.R.P. is dismissed.

M.N.KRISHNAN, JUDGE

Cdp/-